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federal power extended, as has been shown, so far as to enable Congress to control foreign relations, to tax foreign commerce, and exclude foreign vessels from the coasting trade, and to protect commerce among the states from restrictions forbidden by the Constitution. To this extent then, federal power over navigation imported a limited jurisdiction over carriers. The duties which the carrier owed to the public were, however, even in the case of transportation extending across state lines, derived from the state, not from the United States, and were unaffected by this new jurisdiction." On page 82 the author maintains that Marshall's broad definition of commerce did not include transportation in its relation to the carrier. While this is doubtless true in a sense, Mr. Prentice apparently intends his statement to mean that Congress has no power to regulate interstate carriers. On page 33, he says: "That is, in other words, the right to engage in interstate commerce is part of the inalienable liberty which, according to the philosophy of that time, has a higher source than the Constitution itself, and whose protection is one of the general purposes for which government is instituted." This, according to the author, precludes the regulation of interstate commerce, except for the narrow purposes above indicated.

In chapter VI the author denies utterly the existence of any power in Congress to establish federal incorporation except for purely federal purposes, and of course this, according to Mr. Prentice, excludes incorporation of carriers, and of manufacturing and commercial companies.

The book is based upon a careful and very comprehensive study not only of Supreme Court cases, but of such documents as *The Federalist*, the Journals of the Constitutional Convention, the writings of many economists and historians, and the debates of Congress. Unfortunately for the convincing effect of his book, the citations include a number of speeches of senators and representatives in Congress which were unquestionably delivered largely for political effect. Nevertheless, the book is by far the ablest presentation of the railway trust and corporation view of this power of Congress which the present reviewer has seen. In compactness and directness of statement it approaches brilliancy. It is a work which should not be neglected by any student of the subject.

H. M. B.

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THE CLERK'S ASSISTANT, containing a large variety of legal forms and instruments adapted not only to county and town officers, but to the wants of professional and business men throughout the United States. By Henry S. McCall, Professor of the Law of Wills and Real Property in the Albany Law School. Revised and largely rewritten by H. B. Bradbury. Sixth Edition. New York: The Banks Law Publishing Co., 1907, pp. xii, 1216.

A prospective purchaser of this collection of forms, seeing the date 1907 on the title-page, might reasonably expect to find in it forms brought down to date and adapted to the present state of the law. Such an expectation would be grievously disappointed; the book is not a 1907 book, but is the familiar sixth edition of this work, which was published in 1902, and which

has been used since that time by a multitude of grateful clerks. It might suggest itself to some hypercritical people that such a method of indicating the date of a work is likely to lend itself to deception, especially as there is nothing in the book (except the small date of copyrighting, on the back of the title-page) to indicate that the book was not compiled, as well as printed, in 1907. In the five years just past there have been numerous changes in the laws of the several states relating to the conveyance of realty, for instance, and these changes, of course, do not appear in the book issued in 1907. Nor is the absence of any reference to these recent statutory changes the only respect in which this work is disappointing. The preface states that particular care has been taken with the chapter on acknowledgments, and that the statutes of the several states have been carefully examined. But even a cursory reading of this chapter discloses several misstatements which might have been avoided by a not unreasonable amount of diligence and care. For instance, on page 64 it is stated that a seal is necessary to a deed in Michigan. Such a requirement has not existed for half a century. (Compiled Laws, § 10417). On page 72 the author says that the statutes of New Mexico have not abolished seals. They were abolished by Laws 1901, chapter 52, § 11. Again, the statement is made, on pages 78 and 79, that a separate examination of a feme covert is necessary in Oregon and Pennsylvania. This requirement was abolished in Pennsylvania by Laws 1901, page 67, and in Oregon by Laws 1891, page 152; in the latter case the amendatory section appears in the very work (Ann. Stat. 1892, page 1985) to which the author refers as authority for his other statements as to the law of Oregon.

The chapter on conveyances by deed and mortgage is also lacking in some important respects. The "convey and warrant" form of statutory warranty deed is given as suitable for use in most of the states where it has been adopted, but there is not the least intimation of the important covenants that are implied by the use of this form. In the states of Illinois, Indiana, Kansas, Michigan, Minnesota, Mississippi, Utah, Washington, Wisconsin and Wyoming, the use of the statutory "convey and warrant" form binds the grantor by covenants of seisin, good right to convey, freedom from incumbrances, quiet enjoyment, and general warranty. But Mr. McCall (or Mr. Bradbury) does not point this out. Indeed he omits any reference to the existence of a statutory form of deed in the states of Minnesota and Wyoming, though an act providing such a form was passed in the former state in 1901 and in the latter state in 1895. The short form of deed adopted by the New Jersey law of 1899 is also ignored; while the form given as prescribed by the Oklahoma law is one which was repealed in 1897. The author presents, as proper deeds for use in California, Montana, North Dakota and South Dakota, the forms contained in the statutes of those states in which the word "grant" is the operative word. But it is nowhere stated that certain special covenants (that the grantor has not previously conveyed or incumbered the premises conveyed) are implied from the use of those forms, and that, therefore, they are never used when it is intended to bind the grantor by the usual general covenants. It might be reasonably expected, moreover, that in a chapter on conveyances some mention might be made of the fact that certain states

(Alabama, Illinois, Mississippi, Missouri, New Mexico and Pennsylvania) have substantially re-enacted the statute of Anne (6 Anne c. 35), and that certain special covenants are therefore implied in those states from the use of the words "grant, bargain and sell." The omissions above referred to—and it is submitted that some of them, at least, are important—could have been supplied without an unreasonable amount of effort, nor would the additional matter have added appreciably to the bulk of the volume. Indeed, the information could have been inserted in such a way as to occupy no more space than has been required here to call attention to the defect. As for the errors noted, it must be remembered that errors are apparently inevitable in a work of this character, but they are none the less misleading and dangerous; Mr. Bradbury, however, deserves credit for keeping the number of errors down to a comparatively small number, in which respect he has done much better than the authors of some other collections of real estate forms and statutes.

In the portion of the book which does not deal with statutory forms and requirements, the author has done his work excellently. The models set forth are well and skilfully drawn, and are so varied that a form is provided for every state of facts that is likely to arise in the ordinary office. Even the forms which are devised for use under the provisions of the New York Code (and about one-fourth of the book is so intended) are valuable in the way of suggesting forms and phraseology for use under like circumstances in other states. Indeed, the work well deserves its main title of a "Clerk's Assistant," it is a good assistant and guide; but it is not a safe foundation on which to depend absolutely, and if the "business men throughout the United States" (to quote again from the title) rely on its statements instead of securing competent legal advice, they are liable to find that their confidence has been too easily and too fully bestowed.

E. H.